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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,792	06/23/2003	Daniel C. Troyer	4264-030858	8337
28289	7590	11/10/2004	EXAMINER	
WEBB ZIESENHEIM LOGSDON ORKIN & HANSON, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219			PETERSON, KENNETH E	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/601,792

Applicant(s)

TROYER, DANIEL C.

Examiner

Kenneth E Peterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>16 Jan 04</u> | 6) <input type="checkbox"/> Other: _____  |

1. Applicant's election with traverse of group I, Species A in the reply filed on 06 Sep 04 is acknowledged. The traversal is on the ground(s) that there is no serious burden. This is not found persuasive because the search for the apparatus claims is different than for the method claim. See MPEP 808.02C. Case in point being the below-employed Karubian and Balke references from class 452, which were searched for in areas that have no sawing of wood.

The requirement is still deemed proper and is therefore made FINAL.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsujimoto '981, who shows a bandsaw with all of the recited limitations including a blade valley (e.g. near #3 in figure 1a) and a U-shaped cutout (e.g. near letter t in figure 1a). There is a ski-jump profile (e.g. 3 in figure 1a) and a slight rake angle (again, figure 1a). In regards to claim 7, it is noted that the cutout can be bisected at any angle, and therefor any cutout would read on this limitation.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karubian '271 in view of Balke '031.

Karubian shows a meat cutting band saw, but does not disclose what tooth pattern would be appropriate for cutting meat. Balke discloses a tooth pattern for cutting meat, said tooth pattern having a blade valley (e.g. 4) and a U-shaped cutout (2) that is less than half the tooth height and appears to be about the same as a blade thickness. There is a ski-jump profile (e.g. between 4 and 6 in figure 2) and a slight rake angle (again, figure 2). In regards to claim 7, it is noted that the cutout can be bisected at any angle, and therefor any cutout would read on this limitation.

It would have been obvious to one of ordinary skill in the art to have provided Karubian with the tooth pattern of Balke, in order to best cut through the meat and bones in a carcass, as described in Balke's column 1.

If it is interpreted that the cutout is not of a depth "corresponding" to the blade thickness, then it is noted that this is sized to channel out fat, and that it would have been obvious to tinker with the size of this channel, depending on the type and quantity of the fat in the product being cut. Since the cutout appears to be roughly the same size as the blade thickness, any tinkering would surely encompass that size. See In re Aller, 105 USPQ 233.

6. Made of record but not relied are several patents showing pertinent saws.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson whose telephone number is 703-308-2186. Effective on about 16 November 04, the phone number will change to 571-272-4512. The examiner can normally be reached on Monday thru Thursday between 7am and 4pm.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9306. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

kp  
November 4, 2004



KENNETH E. PETERSON  
PRIMARY EXAMINER